

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	AWG Docket No. 10-0349
Sharron Heatherly,)	
n/k/a Christiansen)	
)	
Petitioner)	Decision and Order

1. The hearing by telephone was held on October 26 and November 10, 2010. Ms. Sharron Christiansen, formerly known as Sharron Heatherly, the Petitioner (“Petitioner Christiansen”), participated, representing herself (appearing *pro se*). Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and was represented by Mary E. Kimball.

2. The address for USDA Rural Development for this case is

Mary E. Kimball, Branch Accountant
USDA / RD New Program Initiatives Branch
Bldg 105 E, FC-22, Post D-2
4300 Goodfellow Blvd
St Louis MO 63120-1703

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Summary of the Facts Presented

3. Petitioner Christiansen owes to USDA Rural Development a balance of **\$82,000.72** in repayment of a loan that she borrowed in 1998. The loan was from the USDA Rural Housing Service. Petitioner Christiansen borrowed to buy a home in Texas, and the **\$82,000.72** balance is now unsecured (“the debt”). See USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed October 18, 2010), which are admitted into evidence, together with the testimony of Mary Kimball.

4. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$82,000.72** would increase the current balance by \$22,960.20, to \$104,960.92. *See* USDA Rural Development Exhibits, esp. RX-5.

5. Admitted into evidence are the testimony of Petitioner Christiansen, and Petitioner Christiansen's Narrative and Exhibits, including her Consumer Debtor Financial Statement (filed October 15 and 20, 2010), and her Hearing Request documents and statements.

6. Petitioner Christiansen proved that the home she bought in 1998 had structural defects. The Inspection Report made before she bought the home states, regarding the pier and beam foundation, "some movement" and comments "Exterior Piers at Bear wall slopes," but nevertheless concludes "over all foundation ok." PX-2 and PX-3. [I read "Bear wall" to mean bearing wall.] Petitioner Christiansen writes in her Narrative and she testified that a beam slipped, and due to movement of the unstable foundation, wiring and plumbing broke, and "the floor was separated from the wall by approximately 2-1/2 feet." Petitioner Christiansen testified that she tried and failed to jack up the beam herself and injured herself trying, and that she could not afford to hire the work done. Petitioner Christiansen testified persuasively that the failure of the foundation made the home not habitable, not livable. She testified that the house actually broke in half. Thus, Petitioner Christiansen now owes a huge amount of money for a home that yielded only \$12,045.00 in sale funds in October 2004. RX-4. Petitioner Christiansen testified that she had borrowed 2 loans to buy the house. The amount borrowed from USDA Rural Housing Service was \$53,200.00 in 1998. By the time of the foreclosure sale in 2004, that debt had grown:

\$ 45,842.67	Principal Balance prior to sale
\$ 13,399.39	Interest Balance prior to sale
\$ 36,570.78	Fee Balance prior to sale [\$19,102.34, her other loan, <i>see</i> footnote 1]
- \$ 564.63	Escrow Balance prior to sale
\$ 95,248.21	Total Amount Due ¹ prior to sale

RX-4.

7. Petitioner Christiansen proved that she works up to 40 hours per week as a label coordinator and is paid \$7.50 per hour, gross (minimum wage is \$7.25 per hour). Petitioner Christiansen testified that lately she sometimes does not get 40 hours of work per week (the overtime she enjoyed in the past is not available now). Petitioner Christiansen was off work in June 2010 for 3 weeks due to surgery, and her sick leave and vacation time did not cover

¹ On 7 June 2001, \$19,102.34 was paid to a junior lien holder, Chase Bank of Texas, which was formerly Allied Mortgage, by USDA Rural Housing Service or USDA Rural Development. This \$19,102.34 is part of the Fee Balance shown here. The RX exhibit in-between RX-2 and RX-3 details many of the fees, 2001 through 2004, including this \$19,102.34.

the entire absence. Petitioner Christiansen needs to file income tax returns for about six years. Petitioner Christiansen is separated from her husband and going through a difficult divorce; she is buying a travel trailer and then will need a lot and utilities in order to live in the travel trailer.

8. Petitioner Christiansen's disposable pay does not support garnishment, which would create hardship. 31 C.F.R. § 285.11.

9. Petitioner Christiansen is responsible and willing and able to negotiate the disposition of the debt with Treasury's collection agency.

Discussion

10. Through November 30, 2011, NO garnishment is authorized. *See* paragraphs 6, 7 and 8. I encourage **Petitioner Christiansen and the collection agency to negotiate promptly** the disposition of the debt. Petitioner Christiansen, this will require **you** to telephone the collection agency after you receive this Decision. Petitioner Christiansen, you may ask to be given consideration for the failure of the home's foundation, which, while not the fault of USDA Rural Housing Service, was not your fault either. You may ask to be given consideration for your income being just barely above minimum wage, and, although you are now receiving some past-due child support payments, your reasonable and necessary living expenses still exceed your income. The toll-free number for you to call is **1-888-826-3127**.

Findings, Analysis and Conclusions

11. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Christiansen and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

12. Petitioner Christiansen owes the debt described in paragraphs 3 and 4.

13. **Through November 30, 2011, NO garnishment is authorized.** 31 C.F.R. § 285.11.

14. This Decision does not prevent repayment of the debt through *offset* of Petitioner Christiansen's **income tax refunds** or other **Federal monies** payable to the order of Ms. Christiansen.

Order

15. Until the debt is repaid, Petitioner Christiansen shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in her mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

16. USDA Rural Development, and those collecting on its behalf, are **NOT** authorized to proceed with garnishment **through November 30, 2011**.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 12th day of November 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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